

MAR 24 2010

MATTHEW J. DYKMAN
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

VS.

**ROBERT FRANK HAYES aka FRANK
WILLIAM BAUMANN,**

Defendant.

CRIMINAL NO. 10-755

**Counts 1 - 2: 18 U.S.C. § 1343:
Wire Fraud.**

INDICTMENT

The Grand Jury charges:

INTRODUCTION

1. From on or about December 1, 2005 continuing through on or about May 31, 2007, in Bernalillo County, in the District of New Mexico, and elsewhere within the United States, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, knowingly devised and intended to devise a scheme for obtaining money and property from Pulte LLC., and First Horizon Home Loan Corporation, by means of false and fraudulent pretenses, and representations to obtain money and property by means of said false and fraudulent pretenses, and representations.

THE SCHEME AND THE ARTIFICE

2. On or about December 27, 2005, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, made a uniform residential loan application with Pulte Mortgage, LLC., seeking financing in the amount of approximately \$267,672.00. The subject property was identified with an address of 2417 Corte Seville SE, Rio Rancho, New Mexico, 87124. The information in the loan application was

obtained during an interview with the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, over the telephone by Pulte representative and interviewer **A.H.**, an individual made known to the grand jury.

3. In the course of the telephonic interview on or about December 27, 2005, with Pulte representative **A.H.**, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, in Section VIII of the uniform residential loan application, captioned "DECLARATIONS", falsely provided a negative answer to the question: "Are there any outstanding judgments against you?". In Section IV of the uniform residential loan application, captioned "EMPLOYMENT INFORMATION" he falsely stated that he had been employed for about 10.83 years with Lightstorm Construction, Inc. These statements made by the Defendant were both material and false.

4. As a result of the false and fraudulent pretenses, and representations that he made to Pulte Mortgage, LLC., on or about December 27, 2005, referenced above, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, secured from Pulte Mortgage, LLC., two mortgages on the the 2417 Corte Seville SE property. The first mortgage was in the approximate amount of \$267,672.00 and the second mortgage was in the approximate amount of \$50,188.00.

5. On or about March 14, 2006, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, made a credit application for a home mortgage loan in the approximate amount of \$125,000.00 so as to refinance the second mortgage of \$50,188.00 with Pulte Mortgage, LLC.. He made this credit application over the telephone with loan officer **K.L.** of the New Mexico Bank and Trust, an individual made known to the grand jury. The information that the Defendant, **ROBERT FRANK**

HAYES, aka **FRANK WILLIAM BAUMANN**, provided to K.L. contained material false statements in that the Defendant, **ROBERT FRANK HAYES**, provided negative responses (regarding this credit application) when asked: "Are you obligated to make alimony, support or maintenance payments?"; "Have you been declared bankrupt in the last 10 years?"; "Are there any unsatisfied judgments against you?". Additionally, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, falsely claimed to have been employed by LightStorm Construction, Inc., for a period of 11 preceding years.

6. The aforementioned line of credit mortgage between the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, and the New Mexico Bank and Trust, regarding the property at 2417 Corte Seville SE, Rio Rancho, New Mexico, 87124, in the approximate amount of \$125,000.00 was executed on or about March 16, 2006.

7. On or about April 14, 2006, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, submitted a Uniform Residential Loan application to First Horizon Loan Corporation, seeking to refinance the line of credit mortgage he had obtained from New Mexico Bank and Trust. He secured this mortgage in the approximate amount of \$227,000.00 of which, in turn, First Horizon had wired approximately \$125,000.00 to the New Mexico Bank and Trust to pay off the approximate \$125,000.00 mortgage he had with the New Mexico Bank and Trust. The remaining funds of approximately \$102,000.00, First Horizon had wired into the Defendant's account at the Bank of the West.

8. In his application for the aforementioned First Horizon mortgage made on

or about April 14, 2006, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, made materially false declarations. In Section VIII of this loan application, he stated that there were not any outstanding judgments against him, that he was not obligated to pay alimony, child support or separate maintenance and that he had been employed by LightStorm Construction, Inc., for 11 years preceding his April 14th, 2006, application. These statements were false.

9. On or about July 6, 2005, **FRANK WILLIAM BAUMANN**, claiming identity theft, filed a petition with the Thirteenth Judicial District Court, State of New Mexico, to have his name changed to **ROBERT FRANK HAYES**. On June 13, 2006, the Thirteenth Judicial District Court had the defendant's name changed from **FRANK WILLIAM BAUMANN** to **ROBERT FRANK HAYES**.

10. On or about April 6, 2006, the compliance officer at the New Mexico Bank and Trust, T.A., an individual known to the grand jury, reviewed the Defendant's recently closed home loan so as to ensure that all applicable bank rules and banking regulations had been complied with during the loan process. T.A. noted that an individual claiming to be **ROBERT F. HAYES** had refinanced a second mortgage on a home located at 2417 Corte Seville SE, Rio Rancho, NM, 87124. After paying off existing obligations under the refinance, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, received approximately \$60,000.00 in cash proceeds. T.A. observed that the home was titled in the name **ROBERT F. HAYES** but that the identifying information (social security number and date of birth) for **ROBERT F. HAYES** matched exactly that of a previous bank customer, **FRANK BAUMANN**.

11. When questioned about the similarity in identifying information regarding

the names "**BAUMANN**" and "**HAYES**", the Defendant claimed to have been a victim of identity theft. **T.A.** learned that a history of business interests including addresses and details of corporate documents were identical for both the names of **BAUMANN** and **HAYES** and variations of these names. **T.A.** also discovered that New Mexico driver's license photographs for both **BAUMANN** and **HAYES** were identical. **T.A.** requested that the Defendant, **ROBERT FRANK HAYES**, complete a new identity theft affidavit which the Defendant, **ROBERT FRANK HAYES**, executed on April 5, 2006.

12. **ROBERT F. HAYES** incorporated LightStorm Construction, Inc., in Carson City, Nevada, on October 27, 2004. LightStorm Construction, Inc., was registered in New Mexico on September 21, 2005.

13. Since 1995 through 2005, there have been approximately 18 civil judgments filed against **FRANK WILLIAM BAUMANN**, judgments at times including his wife, **B.B.**, an individual made known to the grand jury and others. These judgments totaled approximately \$255,000.00 and have been recorded in Bernalillo County and Sandoval County in New Mexico as well as in Archuleta County, Colorado.

14. In New Mexico, records in both Bernalillo County and Sandoval County establish that **FRANK WILLIAM BAUMANN** filed for bankruptcy three times between 1996 and 2001. On or about August 21, 1998, he was discharged in Chapter 7 bankruptcy in matter 98-13104-r7 in the District of New Mexico.

15. Upon information and belief, the Defendant **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, was obligated to make child support payments for two children. Additionally, on or about September 13, 2005, in a notarized affidavit filed with the Thirteenth Judicial District Court in Sandoval County, New Mexico, in support of

his request to change his name from **FRANK WILLIAM BAUMANN** to **ROBERT FRANK HAYES**, the Defendant stated that he was required to pay child and spousal support in the amount of \$9,000.00 per year.

COUNT 1

16. Paragraphs 1 through 15 above are re-alleged as though fully set forth therein.

17. From on or about November 29, 2005, through on or about December 31, 2005, in Bernalillo County, Sandoval County, in the District of New Mexico, and elsewhere within the United States, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, knowingly devised and intended to devise a scheme to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, that is he falsely represented to Pulte Mortgage, LLC., in his loan application on a property located at 2417 Corte Seville, Rio Rancho, New Mexico, that there were not any outstanding judgments against him, that he was not obligated to pay alimony, child support, or separate maintenance, and that he had been employed for the preceding 10-plus years with LightStorm Construction, Inc. The Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, for the purpose of carrying out the scheme to obtain money and property by means of false and fraudulent pretenses, representations and promises, used and caused another person to use interstate wire communications facilities when Albuquerque Title initiated a wire transfer from its bank, Wells Fargo in New Mexico, to Pulte Homes, at their bank, the Bank of America in Atlanta, Georgia, the sum of approximately \$12,905.65, a wire transfer of money related to the above identified loan and property.

In violation of 18 U.S.C. § 1343.

COUNT 2

18. Paragraphs 1 through 17 above are re-alleged as though fully set forth therein.

19. From on or about March 1, 2006, through on or about April 30, 2006, in Bernalillo County, Sandoval County, in the District of New Mexico, and elsewhere within the United States, the Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, knowingly devised and intended to devise a scheme to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, that is he falsely represented to First Horizon Home Loan Corporation, in his loan application on a property located at 2417 Corte Seville, Rio Rancho, New Mexico, that there were not any outstanding judgments against him, that he was not obligated to pay alimony, child support, or separate maintenance, and that he had been employed for the preceding 11 years with LightStorm Construction, Inc. The Defendant, **ROBERT FRANK HAYES**, aka **FRANK WILLIAM BAUMANN**, for the purpose of carrying out the scheme to obtain money and property by means of false and fraudulent pretenses, representations and promises, used and caused another person to use interstate wire communications facilities when First Horizon Home Loan Corporation initiated a wire transfer from its funding company, the Sovereign Bank of New England in Wyomissing, Pennsylvania, to the Bank of the West in Rio Rancho, New Mexico, the sum of approximately \$100,229.06, a wire transfer of money related to the above identified loan and property.

In violation of 18 U.S.C. § 1343.

A TRUE BILL:

/s/ _____

FOREPERSON OF THE GRAND JURY

Assistant United States Attorney

____ 03/24/10 4:39pm